

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DUKHAN IQRAA JIHAD MUMIN,

Petitioner,

vs.

HAROLD W. CLARKE,

Respondent.

**4:04CV3058**

**MEMORANDUM  
AND ORDER**

This matter is before the court on the Notice of Appeal ([filing no. 44](#)) filed by Petitioner Dukhan Mumin on February 22, 2019. Petitioner appeals from the court's Memorandum and Order dated February 5, 2019, summarily denying his "Request for Relief from Judgment as an Independent Action Pursuant to [Fed. R. Civ. Pro. Rule 60\(d\)\(1\)](#)" which the court construed as a motion. ([Filing No. 43.](#)) Also before the court is a memorandum from the Clerk of the Court requesting a ruling as to Petitioner's authorization to proceed in forma pauperis on appeal. ([Filing No. 45.](#))

Petitioner has failed to include the \$505.00 appellate filing and docket fees. Petitioner has not previously been granted leave to proceed in forma pauperis in the district court in connection with his § 2254 petition. Thus, [Fed. R. App. P. 24\(a\)\(3\)](#), which continues in forma pauperis status on appeal without further authorization, does not apply. "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." [28 U.S.C. § 1915\(a\)\(3\)](#). The court hereby certifies that the appeal filed by Petitioner in this case is frivolous and not taken in good faith for the reason that Petitioner's "Request for Relief from Judgment as an Independent Action Pursuant to [Fed. R. Civ. Pro. Rule 60\(d\)\(1\)](#)" challenges "a judgment originating from the Lancaster County District Court in case number CR11-954," ([filing no. 42 at CM/ECF p. 1, ¶ 4](#)), while the present habeas matter challenged Petitioner's conviction in the District Court of

Douglas County, Nebraska, on December 13, 1998 ([filing no. 1](#)). Thus, the present case is wholly unrelated to the subject matter of Petitioner's denied motion. Since the appeal is not taken in good faith, Petitioner cannot file an appeal in forma pauperis. *See* [Fed. R. App. P. 24\(a\)\(3\)](#) and [28 U.S.C. § 1915\(a\)\(3\)](#).

IT IS THEREFORE ORDERED that Petitioner may not proceed on appeal in forma pauperis.

Dated this 5th day of March, 2019.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge